

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CR2012-139607-001 DT

05/03/2013

HONORABLE JOSEPH KREAMER

CLERK OF THE COURT  
S. Yoder  
Deputy

STATE OF ARIZONA

KRISTIN SHERMAN

v.

JUSTIN OTIS MCMAHAN (001)

VICTORIA ELISABETH WASHINGTON  
GARRETT W SIMPSON

CAPITAL CASE MANAGER

ARGUMENT ON MOTION TO DISMISS THE DEATH PENALTY  
RULING

Courtroom SCT 5B

1:39 p.m. This is the time set for Oral Argument on Defendants' Motion to Dismiss the Death Penalty (*Furman* Motion). The following parties are present in the listed cause numbers:

CR2009-160953-001  
Rudolph John Cano, Jr.:  
Presence Waived

State: Marischa H. Gilla for Jeanine M. Sorrentino  
Defense: Bruce E. Buck

CR2010-007882-001  
Jasper Phillip Rushing:  
Present

State: Jeannette Gallagher  
Defense: Victoria E. Washington and Terry L. Bublik

CR2010-007912-001  
Darnell Reuna Jackson:  
Present

State: Kirsten Valenzuela and Hilary L. Weinberg  
Defense: Alan I. Tavassoli and Andrew Clemency

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CR2010-007912-002 Eldridge Auzele Gittens: Present	State: Kirsten Valenzuela and Hilary L. Weinberg Defense: Susan L. Corey and Peter Jones
CR2010-048824-001 James Clayton Johnson: Present	State: Kristin Larish Defense: Robert E. Reinhardt and Peter Jones
CR2010-168096-001 Craig Michael Devine: Present	State: Hilary Weinberg for Vince Goddard Defense: Steve B. Koestner and Toby C. Schmich
CR2011-005473-001 Abel Daniel Hidalgo: Present	State: Hilary L. Weinberg Defense: Bruce E. Buck and Toby C. Schmich
CR2011-008004-001 Dennis Michael Levis: Presence Waived	State: Hilary L. Weinberg for Vince H. Imbordino Defense: Steve B. Koestner and Bruce E. Buck
CR2011-008004-002 Thomas Michael Riley: Presence Waived	State: Hilary L. Weinberg for Vince H. Imbordino Defense: Michael G. Bailey
CR2011-133622-001 Jesus Busso-Estopellan: Presence Waived	State: Erica Basta Defense: Thomas E. Glow, Jamie Hindmarch; <i>Knapp</i> counsel Michael Terrible
CR2011-138281-001 Jason Neil Noonkester: Present	State: Jeannette Gallagher Defense: Susan L. Corey and Peter Jones
CR2011-140108-001 Jose Alejandro Acuna Valenzuela: Present	State: Kristin Larish Defense: Thomas E. Glow and Steve Koestner
CR2011-150239-001 Ryan William Foote: Present	State: Jeannette Gallagher for Patricia L. Stevens Defense: Dawn R. Sinclair and Eric G. Crocker

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CR2011-151833-001  
Jonathan Ray Cole:  
Presence Waived

State: Marischa H. Gilla for Stephanie D. Low  
Defense: Quinn T. Jolly and Gregory Navazo

CR2012-007399-001  
Zachary William Baxter:  
Presence Waived

State: Marischa H. Gilla  
Defense: Jamie C. Hindmarch and Rosemarie Pena-  
Lynch

CR2012-139607-001  
Justin Otis McMahan: Present

State: Kristin Sherman  
Defense: Victoria E. Washington and Garrett Simpson

CR2012-154880-001  
Manuel Antonio Gonzalez:  
Presence Waived

State: Marischa H. Gilla for Neha Bhatia  
Defense: Jamie C. Hindmarch, Rosemarie Pena-Lynch  
and Michael Terrible

Court Reporter Laura Ashbrook is present.

A record of the proceedings is also made by audio and/or videotape.

Procedural issues are discussed.

The Court affirms its January 25, 2013 ruling on the equal protection argument.

Discussion is held regarding Defendant Gittens' Request for Findings of Fact and Orders.  
For the reasons stated on the record,

IT IS ORDERED denying the Request for Findings of Fact and Orders.

Argument is presented on the Motion to Dismiss the Death Penalty.

The Court finds that Defendants have not presented enough evidence for the Court to  
overcome the strong presumption that the statute is constitutional.

For the reasons as more fully stated on the record,

IT IS ORDERED denying the Motion to Dismiss the Death Penalty.

The Court will issue a written ruling setting forth its reasoning.

FILED: Exhibit Worksheet (under CR2010-007912-002, Gittens).

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2:56 p.m. Matter concludes.

This case is eFiling eligible: <http://www.clerkofcourt.maricopa.gov/efiling/default.asp>.  
Attorneys are encouraged to review Supreme Court Administrative Order 2011-140 to determine their mandatory participation in eFiling through AZTurboCourt.